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In re Application of JACOBS et al :  
U.S. Application No.: 10/542,958 :  
PCT Application No.: PCT/US04/01773 : COMMUNICATION  
Int. Filing Date: 23 January 2004 :  
Priority Date Claimed: 24 January 2003 :  
Attorney Docket No.: 96700/1031 :  
For: USE OF MYCOBACTERIAL VACCINES. . . :

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 30 January 2007.

**BACKGROUND**

On 23 January 2004, applicant filed international application PCT/US04/01773, which claimed priority of an earlier United States application filed 24 January 2003. The thirty-month period for paying the basic national fee in the United States expired on 24 July 2005.

On 21 July 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 13 March 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 06 July 2006, applicant filed a request for status under 37 CFR 1.42, including executed declarations.

On 05 September 2006, this Office mailed a decision granting the 06 July 2006 request for status but indicating that several of the declarations were improper.

On 13 September 2006, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that new declarations must be submitted.

On 08 January 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to properly respond to the Notification of Defective Response.

On 30 January 2007, applicant filed the present petition under 37 CFR 1.137(b).

### **DISCUSSION**

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

### **CONCLUSION**

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 23 January 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 30 January 2007.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

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